SWAMI RAMANAND TEERTH MARATHWADA UNIVERSITY NANDED

SHRI SHIVAJI LAW COLLEGE PARBHANI

SYNOPSIS

ON

LAWS RELATING TO SENIOR CITIZENS IN INDIA WITH SPECIAL REFERENCE TO MAINTENANCE OF PARENTS- A CRITICAL STUDY

Submitted by

SHRI. DINKAR ANNASAHEB ARGADE
(Research Student)

GUIDE

Dr. PRATIBHA G. CHAVAN
(Associate Professor)
SHRI. SHIVAJI LAW COLLEGE, PARBHANI
(MAHARASHTRA), INDIA

2022-2023

1. INTRODUCTION:

A family unit is the bedrock of any society, and its stability is deeply intertwined with the well-being of its members, particularly the relationship between parents and their children. In the Indian context, where traditional values of filial piety and intergenerational support remain strong, the maintenance of parents holds profound cultural, legal, and socio-economic significance. As the demographic landscape shifts, societal structures evolve, and legal systems adapt, the intricate dynamics of parental maintenance come to the forefront of discussions about family responsibilities, legal provisions, and social welfare.

This research proposal endeavours to embark on an in-depth exploration of the complex socio-legal dimensions surrounding parental maintenance in India. Focusing on the critical aspects of the legal framework, judicial precedents, gender dynamics, and implications for social welfare, this study aims to shed light on a crucial yet often underrepresented facet of family law. By delving into the multifaceted nuances of parental maintenance, this research proposal seeks to not only enhance our theoretical understanding but also contribute actionable insights for legal reform and social policy enhancement.

The interplay between the legal provisions, judicial interpretations, cultural norms, and socio-economic factors significantly influences the experiences of parents seeking maintenance and those obligated to provide it. The legal framework, which includes both the Code of Criminal Procedure and the Maintenance and Welfare of Parents and Senior Citizens Act, sets the stage for addressing parental maintenance issues. However, the interpretation and application of these provisions by the judiciary play a pivotal role in shaping the outcomes of maintenance claims. Moreover, the gender dynamics at play within familial relationships can have a substantial impact on the accessibility and fairness of maintenance provisions, influencing both legal proceedings and societal perceptions.

Furthermore, this research acknowledges the evolving structure of Indian families, where factors such as urbanization, migration, and changing economic landscapes are altering traditional family support systems. With the changing roles of women, men, and elderly individuals within the family unit, the study will critically assess the existing gender biases inherent in maintenance laws and explore the potential for equitable reform.

The implications of parental maintenance extend beyond the legal realm, as they have direct bearings on social welfare policies and practices. Ensuring that parents receive adequate support in their old age is not only a matter of legal entitlement but also a question

of social responsibility and human dignity. This research proposal, therefore, endeavours to uncover the broader implications of parental maintenance on the well-being of individuals and the societal fabric, recognizing its potential to influence social attitudes, familial relationships, and the broader ethos of intergenerational care.

Finally, the proposed research proposal sets out on a comprehensive journey to explore and dissect the intricate socio-legal dynamics of parental maintenance in India. Through rigorous examination of the legal framework, analysis of judicial precedents, scrutiny of gender dynamics, and assessment of implications for social welfare, this study seeks to contribute to the existing body of knowledge, stimulate critical dialogue, and provide actionable insights for legal reforms and policy enhancements. By understanding the complexities of parental maintenance, this research proposal aspires to promote greater equity, social cohesion, and intergenerational harmony within the Indian society.

2. STATEMENT OF PROBLEM:

The maintenance of parents in India stands at the nexus of intricate socio-legal complexities that require meticulous investigation and understanding. Despite the enduring cultural values of filial piety and intergenerational support, the transition towards modern family structures, coupled with shifts in societal norms, economic factors, and legal interpretations, has led to a pressing need for a comprehensive analysis of the socio-legal dynamics surrounding parental maintenance. This proposed research aims to address the following central problem:

While India possesses legal provisions and precedents that ostensibly guarantee parental maintenance, there exists a disjuncture between the theoretical rights enshrined in the legal framework and the practical challenges faced by parents seeking maintenance and their adult children obligated to provide it. This disjuncture is exacerbated by the presence of gender biases, evolving family dynamics, and broader implications for social welfare, thereby creating a complex web of issues that necessitates critical examination.

The problem statement centre’s on the misalignment between the promise of adequate parental maintenance protection within the legal framework and the multifaceted realities faced by individuals within the intricate fabric of familial and societal relationships. It underscores the need to explore and understand the nuanced factors that influence the accessibility, effectiveness, and fairness of parental maintenance provisions,

which are further exacerbated by the influence of gender dynamics and the broader socio-economic context.

By delving into this intricate problem, this research seeks to bridge the gap between legal intent and lived experiences, uncover the underlying mechanisms perpetuating this disjuncture, and offer insights for potential legal reforms and social policy enhancements. The ultimate goal is to facilitate the establishment of a more equitable, just, and responsive framework for parental maintenance in India that aligns with the evolving socio-legal landscape and addresses the multifaceted challenges faced by parents and their adult children alike.

3. AIMS AND OBJECT:

The following aims and objectives collectively contribute to a holistic exploration of the socio-legal dynamics surrounding parental maintenance in India.

a) Understanding the Historical and Cultural Context: Examine the historical and cultural roots of filial responsibilities and parental care in India, tracing how these values have evolved over time and their influence on contemporary legal provisions.

b) Analysing Legal Framework and Provisions: Examine the existing legal framework governing parental maintenance in India, including relevant laws. Analyse the scope and limitations of legal provisions for both parents seeking maintenance and adult children responsible for providing it.

c) Understanding Judicial Precedents: Study and evaluate key judicial precedents related to parental maintenance cases in India. Explore how legal interpretations and court decisions shape the application of maintenance laws and impact the outcomes of maintenance claims.

d) Uncovering Gender Dynamics: Investigate how gender norms and biases influence the perceptions and experiences of parents and adult children in parental maintenance matters. Identify gender-based disparities in the application of maintenance laws and their effects on equitable outcomes.

e) Assessing Effectiveness and Challenges: Critically evaluate the effectiveness of the legal provisions and judicial precedents in ensuring the financial support and well-being of parents, identifying any challenges or gaps in their practical application.

f) Assessing Implications for Social Welfare: Examine the broader societal implications of parental maintenance on social welfare policies and practices. Investigate

how the shift from traditional family support to legal entitlements impacts the well-being and dignity of elderly parents.

g) Identifying Discrepancies and Challenges: Identify discrepancies between legal intent and practical implementation in parental maintenance cases. Explore challenges faced by both parents seeking maintenance and adult children fulfilling their obligations, and propose solutions for alignment.

h) Guiding Legal Reforms and Policy Enhancement: Provide actionable insights for potential legal reforms that bridge gaps in the legal framework and ensure more effective maintenance provisions. Contribute recommendations for gender-sensitive reforms that promote equitable outcomes for parents and adult children.

i) Promoting Awareness and Advocacy: Raise awareness about parental maintenance rights and responsibilities among the general public, legal professionals, and policymakers. Advocate for informed public discourse and policy changes that reflect the evolving socio-legal dynamics and uphold the principles of social welfare.

4. SIGNIFICANCE OF THE STUDY:

The significance of the study titled "Laws Relating to Senior Citizens in India with Special Reference to Maintenance of Parents- A Critical Study" lies in its multifaceted contribution to legal understanding, societal discourse, and policy enhancement. In a swiftly evolving Indian society, where traditional values intertwine with modern dynamics, the study offers a crucial exploration of the intricate interplay between legal regulations, cultural norms, and familial responsibilities. By meticulously dissecting the legal framework concerning parental maintenance, the study provides a comprehensive analysis that informs legal practitioners, policymakers, and scholars alike. It addresses a pertinent societal issue, shedding light on the challenges and gaps in the practical implementation of these provisions. The study's insights hold the potential to guide policy formulation, thereby bridging the divide between legal principles and the real-life needs of elderly parents and their adult children. Moreover, by delving into the ethical and cultural dimensions of parental care, the research enriches the understanding of how legal systems intersect with deeply ingrained values. This interdisciplinary approach fosters academic discourse that transcends legal boundaries and embraces sociocultural contexts. Ultimately, the study not only contributes to academic scholarship but also stands as a practical resource for

stakeholders seeking to navigate the intricate terrain of parental maintenance in the Indian legal landscape.

5. AREA OF RESEARCH:

In the complex web of familial relationships and legal obligations, the concept of parental maintenance stands as a critical bridge between tradition and modernity, emerges at a time when the social fabric of Indian society undergoes transformative shifts. Evolving family structures, the interplay of gender norms, and the interface between legal intent and practical realities all converge to underscore the need for a rigorous inquiry into the realm of parental maintenance. This research will comprehensively examine the legal framework and judicial precedents concerning laws relating to senior citizens in India with special reference to maintenance of parents. Focusing on the last 10 years' case laws, the study aims to provide a critical analysis of the evolving landscape surrounding parental maintenance within the Indian legal system. This research embarks on an exploration that not only navigates the legal intricacies but also unveils the deeper implications for social equity and well-being in a society that is at once rooted in tradition and responsive to change. Therefore, the area of research can be elucidated as follows:

1) Evolving Family Structures and Socio-Economic Trends: The changing landscape of Indian society is marked by shifts in family structures, characterized by a rise in nuclear families, urbanization, and migration patterns. These transformations have disrupted traditional extended family support systems, presenting new challenges in ensuring sufficient support for elderly parents. As these trends reshape the dynamics of intergenerational relationships, a comprehensive exploration of the socio-legal aspects of parental maintenance becomes imperative.

2) Bridging the Gap between Legal Intent and Practical Realities: While legal provisions exist to safeguard parental maintenance rights, a significant gap often exists between the intended legal framework and its practical implementation. The theoretical entitlements guaranteed by law may not always translate into effective support for parents in need, leading to discrepancies and challenges for both parents seeking maintenance and adult children fulfilling this obligation. Systematically examining these gaps can offer insights into how to align legal provisions with the realities faced by families.

3) Unravelling Gender Dynamics and Equitable Support: Gender dynamics play a pivotal role in shaping the experiences of both parents seeking maintenance and adult

children responsible for providing it. Societal norms and biases often intersect with legal interpretations, impacting the accessibility and fairness of parental maintenance. A comprehensive study can delve into how these gender dynamics influence the perceptions of obligations and rights, thereby paving the way for potential reforms that promote equitable outcomes for all parties involved.

4) Shifting Social Welfare Paradigms: As traditional family support systems evolve, the responsibility for ensuring parents' financial well-being in their old age increasingly falls on legal entitlements and societal support mechanisms. Consequently, understanding the implications of parental maintenance on broader social welfare policies becomes crucial. By exploring the interplay between legal provisions, family responsibilities, and the state's role in supporting the elderly, this research can offer valuable insights for formulating effective policies that cater to the changing needs of aging parents.

5) Addressing a Research Gap and Fostering Informed Dialogue: Despite the significance of parental maintenance in the Indian context, comprehensive research on this multifaceted issue remains limited. The intricate interplay between legal frameworks, judicial interpretations, gender norms, and social implications requires nuanced investigation. Undertaking a thorough examination of these dynamics can contribute to a more informed and substantive dialogue on parental maintenance, subsequently influencing legal reforms, social policies, and public awareness.

6) Promoting Equity and Societal Well-Being: The multifaceted nature of the research topic aligns with broader societal goals of promoting equity, family well-being, and social cohesion. By shedding light on the socio-legal intricacies of parental maintenance, this research can pave the way for a more compassionate and equitable society that values and supports its aging population. Addressing the complexities of this subject can result in well-informed policies, legal reforms, and social initiatives that foster intergenerational harmony and collective well-being.

Thus, the fabric of society is woven with the threads of intergenerational relationships, obligations, and support systems. The inquiry into the socio-legal dynamics of parental maintenance within the context of Indian society has revealed intricate layers that shape the experiences of parents and adult children alike. Through the lens of evolving family structures, legal constructs, gender norms, and the broader landscape of social welfare, it becomes clear that a comprehensive understanding is not only desirable but

imperative. As the study concludes, it becomes evident that this exploration is not only an academic endeavour but a call to action. By bridging the gap between legal frameworks and lived realities, addressing gender biases, and informing social policies, this research has the potential to pave the way for a more compassionate, just, and equitable society—one that honours the legacy of the past while embracing the complexities of the present and the needs of an aging population.

6. REVIEW OF LITERATURE:

Prof. Kamlesh M. Pandya's[1] research paper offers a comprehensive review of India's maintenance laws, including Section 125 of the Criminal Procedure Code, The Hindu Marriage Act, and The Hindu Adoption and Maintenance Act. It emphasizes the legal complexity surrounding maintenance, explores the importance of international guidelines safeguarding vulnerable groups, and scrutinizes The Maintenance of Parents and Senior Citizens Act, 2007. The paper underscores the act's necessity, probes its maintenance provisions, and proposes enhancements. Through this comprehensive legal analysis, the paper contributes valuable insights into India's maintenance laws, addressing the needs of diverse vulnerable groups and suggesting potential improvements.

Pooja Rani's[2] work emphasizes the importance of dignified lives for elderly parents, aligning their needs with the aspirations of the current generation. The paper highlights aging as a natural process, emphasizing the role of elders in connecting past and present while shedding valuable insights. It addresses the shifting care burden to contemporary generations and explores legal interventions to uphold moral obligations to parents and nurturing relatives. The study compares the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, with Section 125 of the Criminal Procedure Code, 1973, to illuminate its advantages in addressing senior citizens' responsibilities. Through examining familial duties, legal frameworks, and societal changes, the paper contributes to the discourse on providing supportive environments for the elderly.

Ashok Kumar Behera's[3] article sheds light on the challenging circumstances faced by elderly individuals, including poverty, isolation, neglect, abuse, and vulnerability due to

---

1 Prof. Kamlesh M. Pandya, "The Right to Maintenance of Parents and Senior Citizens in India," Indian Journal of Applied Research, vol. 4, no. 1, Jan. 2014, ISSN 2249-555X.

2 Rani, Pooja. "Maintenance of Senior Citizens and Parents." Socio-Legal and Contemporary Research: A Publication of KnowLaw, vol. 01, no. 02, December 2021.

3 Ashok Kumar Behera's, "Maintenance and Welfare of Parents and Senior Citizens - A Legal Analysis," in Sociology and Criminology- Open Access, Vol. 9, Iss. 3, No: e111.

limited resources. It particularly focuses on widows, widowers, and childless seniors, highlighting their precarious situations. The article examines the National Policy on Older Persons introduced in 1999, emphasizing the need for in-depth investigation of the challenges encountered by senior citizens. It advocates for stricter regulations and procedural improvements to enhance the implementation of related laws, emphasizing the importance of comprehensive research to propose effective solutions.

Kamal Jeet Singh, Raghuvinder Singh, and Mamta Kumari's[4] study underscores India's deep-rooted cultural reverence for elders, evident in practices like touching their feet. It highlights the historical veneration of parents and elderly individuals within families, further reinforced by Article 41 of the constitution. However, modern challenges, including a lack of support, contrast this tradition. The enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, aligns with Article 41, aiming to address contemporary issues. The research focuses on two objectives: evaluating the national legal framework for senior citizens' rights and assessing its efficacy in promoting their welfare. The article provides an insightful analysis of cultural norms, legal measures, and challenges impacting senior citizens' well-being, offering valuable perspectives on India's ongoing efforts to safeguard their protection and welfare.

7. RESEARCH QUESTIONS:

a) How have historical and cultural factors shaped the concept of parental maintenance in India?

b) What are the key legislative provisions at both national and state levels concerning maintenance for parents in India?

c) How do India’s existing parental maintenance laws align with practical needs and challenges faced by both seeking parents and responsible adult children?

d) How have judicial decisions and precedents contributed to the interpretation and application of maintenance provisions for parents?

e) What challenges and gaps exist in the practical implementation of parental maintenance laws?

---

4 Kamal Jeet Singh, Raghuvinder Singh, and Mamta Kumari, THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007: A STUDY,EPRA International Journal of Multidisciplinary Research (IJMR) - Peer Reviewed Journal Volume: 6 | Issue: 9 | September 2020 Journal DOI: 10.36713/epra2013 SJIF Impact Factor: 7.032 ISI Value: 1.188.

f) In what ways, does the legal framework balance individual rights, familial responsibilities and societal expectations regarding parental care?

g) To what extent, do the laws relating to senior citizens in India with special reference to maintenance of parents, as analyzed through the lens of jurisprudence, align with principles of equity, social justice, and familial responsibilities, and how have these provisions shaped societal perceptions of intergenerational care and support?

h) What lessons can be drawn from international legal systems in addressing the complexities of parental maintenance?

i) To what degree do existing maintenance provisions align with the evolving needs and expectations of parents and adult children?

j) What recommendations can be proposed to enhance the legal framework for parental maintenance in India?

8. RESEARCH METHODOLOGY:

The research methodology employed in this study, titled "Laws Relating to Senior Citizens in India with Special Reference to Maintenance of Parents- A Critical Study," primarily employs a doctrinal research approach. This approach is chosen to delve deeply into the legal aspects of parental maintenance, focusing on the analysis of statutes, legislations, case laws, and legal interpretations. The research involves a comprehensive review and analysis of relevant legal texts, including national and state-level statutes, rules, regulations, and amendments that pertain to parental maintenance in India. By meticulously examining these legal provisions, the study aims to discern the specific rights, responsibilities, and obligations enshrined within the legal framework. A pivotal aspect of the doctrinal research methodology is the scrutiny of judicial decisions and case law related to parental maintenance. This involves a systematic review of landmark judgments, appeals, and precedents set by Indian courts. By analyzing the legal reasoning, arguments, and conclusions of these cases, the study seeks to uncover patterns, legal principles, and the evolution of legal interpretations over time. Complementing the primary data are secondary sources, particularly legal commentaries, scholarly articles, textbooks, and academic publications that provide insightful interpretations and analyses of the legal provisions and

case law. These secondary sources contribute to a deeper understanding of legal concepts, nuances, and implications related to parental maintenance.

9. LIMITATION OF RESEARCH:

While this research aims to comprehensively analyse the laws relating to senior citizens in India with special reference to maintenance of parents, it is important to acknowledge certain limitations that may impact the scope and depth of the study. These limitations are intrinsic to the subject matter and the available resources, and they should be considered when interpreting the findings of this research.

Firstly, the research's scope may be constrained by the evolving nature of legal frameworks and judicial interpretations. Laws are subject to change through legislative amendments and judicial decisions. Since this study relies on existing legal frameworks and judicial precedents up until the cut-off date in September 2021, it may not capture the most recent developments or alterations in the legal landscape. Therefore, any subsequent changes in legislation or landmark judgments that have occurred after this date may not be adequately addressed in this research, potentially limiting the research's accuracy and relevance to the current legal environment.

Secondly, the availability and accessibility of case law and legal documents may impact the depth of the study. The research heavily relies on the analysis of judicial precedents to establish patterns, principles, and trends in maintenance provisions for parents. However, the accessibility of case law, especially older or lesser-known judgments, might be limited due to factors such as inadequate digitization or restricted public availability. This could result in an incomplete representation of judicial interpretations, potentially leading to a skewed analysis that doesn't fully reflect the diversity of perspectives within the legal system.

Lastly, the cultural, regional, and socio-economic diversity within India may introduce complexities in the interpretation of maintenance provisions. The legal framework for maintenance provisions applies uniformly across the country; however, the practical implementation and judicial interpretations might vary based on local customs, cultural norms, and economic disparities. This research might not be able to capture the intricacies of these variations comprehensively due to limitations in resources and access to localized information.

10. CHAPTERIZATION:

As we embark on this exploration, it becomes crucial to structure the journey systematically. The upcoming chapterization serves as a roadmap, guiding us through the various facets of parental maintenance within the Indian context. Each chapter is designed to contribute to a comprehensive understanding of the topic, weaving together legal intricacies, cultural considerations, ethical dimensions, and practical challenges. The tentative chapters' scheme is as follows. The proposed research work is divided into seven chapters.

CHAPTER 1: INTRODUCTION

CHAPTER 2: RIGHT TO LIFE VIS A VIS RIGHT TO MAINTENANCE- JURISPRUDENTIAL ASPECTS

CHAPTER 3: SOCIO-CULTURAL DYNAMICS OF PARENTS' RIGHT TO MAINTENANCE- A HISTORICAL VIEW

CHAPTER 4: RIGHT TO MAINTENANCE OF PARENTS- A COMPARATIVE ANALYSIS

CHAPTER 5: LEGAL FRAMEWORK OF PARENTAL MAINTENANCE IN INDIA

CHAPTER 6: JUDICIAL PRECEDENTS AND ANALYSIS- IDNETIFYING GAPS AND CHALLENGES

CHAPTER 7: CONCLUSION AND SUGGESTIONS

11. BIBLIOGRAPHY:

Books and commentary on 1) The Code of Criminal Procedure, 1973

2) The Hindu Adoption and Maintenance Act, 1956 and

3) The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

- https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/fileview/January_2014_1388584182_ee78c_76.pdf
- https://knowlaw.in/wp-content/uploads/2021/12/Maintenance-of-Senior-Citizens-and-Parents-KnowLaw-Journal.pdf

- https://www.longdom.org/open-access-pdfs/maintenance-and-welfare-of-parents-and-senior-citizens--a-legal-analysis.pdf
- https://eprajournals.com/IJMR/article/3328/download

RESEARCH STUDENT **RESEARCH GUIDE**

Dinkar A. Argade **Dr. Pratibha G. Chavan**
(Associate Professor)